



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

DCL: GEN-10-18

Subject: Guidance to foreign institutions on various Title IV requirements

Summary: This letter provides foreign institutions that participate in the William D. Ford Federal Direct Loan (Direct Loan) Program with guidance on Title IV, Higher Education Act (HEA) program requirements.

Dear Colleague:

An institution of higher education's participation in the Direct Loan Program is governed by United States laws and regulations. In this letter, we provide guidance to assist institutions located outside of the United States with the proper administration of various "cash management" requirements for maintaining, disbursing, and accounting for Direct Loan Program funds, as well as information on institutional discretion for adjusting a student's cost of attendance to account for fluctuating currency exchange rates. This guidance is intended to supplement, and, where necessary, clarify and correct, training previously provided to foreign schools in workshop sessions as part of their transition to the Direct Loan Program. Recordings of Foreign School Direct Loan Training Webinars are available at <http://www2.ed.gov/offices/OSFAP/training/specific.html>. Additional information on the participation of foreign institutions in the Direct Loan Program is available on the Foreign Schools Information Web site at <http://ifap.ed.gov/ForeignSchoolInfo/ForeignSchoolInfo.html>. During reviews of an institution's compliance, we take into account any written guidance that had been provided by the Department during the period under review. In all cases, statutory and regulatory requirements are controlling.

Early Disbursements to Students

Q1. Under the Federal Family Education Loan (FFEL) Program, under certain circumstances, lenders were allowed to disburse FFEL Program funds directly to a student, or a parent for a Parent PLUS Loan, up to 30 days prior to the first day of classes for a payment period. Does this same policy apply to direct disbursements of Direct Loan funds by foreign schools?

A1. No. The earliest an institution may disburse Direct Loan Program funds to a student, or parent for a Parent PLUS Loan, for any payment period is 10 days before the first day of classes for the payment period. For credit-hour non-term programs, credit hour programs with non-standard terms that are not substantially equal in length, and clock hour programs, a student may not be paid for a second or subsequent payment period until he or she has completed the previous payment period. Therefore, if a student completes the previous payment period for which he or she received Direct Loan Program funds later than 10 days before the first day of classes of the subsequent payment period, the institution may not disburse Direct Loan Program funds until the date the student completes the previous payment period. As with FFEL Program funds, the

1990 K ST. N.W., WASHINGTON, DC 20006
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earliest an institution may disburse the initial installment of a loan under the Direct Loan Program to a first-year, first-time borrower in an undergraduate program of study is 30 days after the first day of the student's program of study. An institution is exempt from the 30-day delayed disbursement requirement for loans disbursed before October 1, 2011, if the institution has a cohort default rate of less than 10 percent for each of the three most recent fiscal years for which data are available. An institution is exempt from the 30-day delayed disbursement requirement for loans disbursed on or after October 1, 2011, if the institution has a cohort default rate of less than 15 percent for each of the three most recent fiscal years for which data are available. (34 CFR 668.164(f)). This is a correction to guidance provided to foreign institutions earlier this year in training workshop sessions as part of the transition to the Direct Loan Program.

Payment of a Direct Loan Credit Balance to a Student or Parent

Q2. Are foreign institutions required to pay a credit balance of Direct Loan Program funds in a specific currency (e.g., U.S. dollars or local currency)?

A2. We expect that in most cases foreign institutions will pay Direct Loan Program credit balances to students or parents in the local currency. However, a foreign institution may pay a Direct Loan Program credit balance in U.S. dollars if it chooses to do so, either to accommodate a request from a U.S. student or otherwise. Whenever an institution disburses Title IV, HEA program funds by crediting a student's account and the total amount of all Title IV, HEA program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the institution assessed the student, the institution must pay the resulting credit balance directly to the student, or parent for a Parent PLUS Loan, as soon as possible, but no later than: (1) 14 calendar days after the balance occurred if the credit balance occurred after the first day of class of a payment period; or (2) 14 calendar days after the first day of class of a payment period if the credit balance occurred on or before the first day of class of that payment period (34 CFR 668.164(e)).

Student's/Parent's Cancellation of a Loan

Q3. If a student, or parent for Parent PLUS Loan funds, requests that an institution cancel all or a portion of his or her Direct Loan, is a foreign institution required to comply with the cancellation request if the loan funds have already been drawn down by the institution? If an institution is required to return the funds, and it results in the institution returning more than the original amount received due to fluctuating exchange rates and any fee the bank charges for making the exchange, must the institution still comply?

A3. Yes, an institution must comply with a borrower's request to cancel all or a portion of a loan that was credited to a student's account if the institution receives the cancellation request within certain time frames, as described below. The institution must return the original U.S. dollar amount of cancelled loan funds, even if the institution incurs additional costs due to fluctuating exchange rates and/or exchange fees.

Any time an institution credits a student account with Title IV loan funds, the institution must notify the student, or parent for a Parent PLUS Loan, of the anticipated date and amount of the

disbursement, the student's or parent's right to cancel all or a portion of the loan, and the procedures and time by which the student or parent must notify the institution that he or she wishes to cancel the loan or loan disbursement.

The student or parent must inform the institution if he or she wishes to cancel all or a portion of a loan. If the institution, prior to crediting the student's account, obtains from the student a written confirmation of the type and amount of Direct Loans that the student wants to receive for the award year, the institution is required to return the loan proceeds, cancel the loan, or do both, only if it receives the cancellation request by the later of the first day of the payment period or 14 days after it notified the student or parent of the right to cancel all or a portion of the loan. If the institution did not obtain such a written confirmation prior to crediting the student's account, the institution is required to return the loan proceeds, cancel the loan, or do both, only if it receives the cancellation request within 30 days of the date the institution notified the student or parent of the right to cancel all or a portion of the loan. If an institution receives a student's or parent's request for cancellation after the periods specified, the institution may, but is not required to, honor the cancellation request (34 CFR 668.165(a)).

If an institution is required to return Direct Loan funds in response to a student's or parent's loan cancellation request, the institution is not responsible for returning any portion of the loan disbursed directly to the student or parent. However, institutions are encouraged to take an active role in advising borrowers to return Direct Loan funds that were disbursed directly, if the borrower wants to cancel the loan. For additional information on Title IV loan cancellation requirements, see Chapter 1 of Volume 4 of the 2010-2011 *Federal Student Aid Handbook* at <http://ifap.ed.gov/fsahandbook/attachments/1011FSAHbkVol4Ch1.pdf>. For information on the procedures for returning Direct Loan funds to the Department, see the electronic announcement posted to the Department's Information for Financial Aid Professionals (IFAP) Web site at: <http://ifap.ed.gov/eannouncements/072310FSDL10RefundsCashGuid.html>.

Changes to Cost of Attendance Due to Fluctuating Currency Rates

Q4. May an institution adjust a student's cost of attendance to recognize fluctuations in currency rates? For example, in June, our institution's yearly cost of attendance of 30,000 British pounds is the equivalent of 45,000 U.S. dollars based on an exchange rate of 1.5 U.S. dollars to 1 British pound. However, when the student arrives in September, the exchange rate is 2 U.S. dollars to 1 British pound for a cost of attendance of 60,000 U.S. dollars.

A4. Unless a foreign institution has entered into an enrollment agreement with the student to provide a program or a portion of a program for a set amount expressed in U.S. dollars, the foreign institution may adjust the cost of attendance to reflect changes in exchange rates. If recalculations of costs of attendance on this basis are to be performed, the institution should have a policy it applies consistently, resulting in both upward and downward adjustments, with respect to all Direct Loan borrowers. The recalculation should not include costs incurred in a different payment period. In the recalculation, the general rules as to costs of attendance continue to apply (e.g., costs of attendance for tuition and fees should include only those normally assessed a student carrying the same academic workload as determined by the institution, and can include costs for rental or purchase of any equipment, materials, or supplies required of all students in

the same course of study). These recalculations are not an exercise of professional judgment but instead reflect changes in costs as expressed in U.S. dollars resulting from fluctuations in currency exchange rates.

Thank you for your continued participation in the Direct Loan Program. If you have any questions regarding this letter, please contact the Office of Federal Student Aid's Foreign Schools Team at fsa.foreign.schools@ed.gov or (202) 377-3168.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eduardo M. Ochoa', with a stylized flourish at the end.

Eduardo M. Ochoa
Assistant Secretary for
Postsecondary Education